

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ROBERT PARDUE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:14cv290KS-MTP

**JACKSON COUNTY, MISSISSIPPI;
JAMES MICHAEL BYRD a/k/a MIKE BYRD,
Individually and in his Official Capacity
as Sheriff of Jackson County, Mississippi;
HOPE THORNTON, Individually and in
her Official Capacity as Detective in the Jackson
County Sheriff's Department; TRAVELERS
CASUALTY AND SURETY COMPANY OF
AMERICA; and JOHN OR JANE DOES 1 - 10**

DEFENDANTS

**MOTION TO DISMISS BY JAMES MICHAEL BYRD A/K/A MIKE BYRD
AND HOPE THORNTON IN THEIR OFFICIAL CAPACITIES**

COME NOW, the Defendants, JAMES MICHAEL BYRD a/k/a MIKE BYRD, in his Official Capacity, and HOPE THORNTON, in her Official Capacity, and move this Honorable Court to Dismiss the official capacity claims against them, and for cause would show unto the Court as follows:

The Plaintiff filed a Complaint naming, *inter alia*, Mike Byrd and Hope Thornton in their official and individual capacities, along with Jackson County, Mississippi. [Doc. 1]. Byrd was sued as Sheriff of Jackson County, Mississippi, and Thornton was sued as a Detective of the Jackson County Sheriff's Department.

It is well established that a claim brought against a government employee in his official capacity is actually a claim against the governmental entity itself. *See Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985). *See also Granger v. Slade*, 361 F. Supp. 2d 588, 597 (S.D. Miss. 2005)(citing

Will v. Mich. Dept. of State Police, 491 U.S. 58, 71 (1989)). The governmental entity in this matter is Jackson County, Mississippi, and it has already been made a Defendant in this lawsuit. Therefore, the claims against Mike Byrd, in his official capacity, and Hope Thornton, in her official capacity, are nothing more than claims against Jackson County, Mississippi, which are redundant and should be dismissed. To keep both the official capacity defendants and the County in as defendants only serves to generate additional pleadings, paperwork, and possibly confusion.

The Defendants are specifically not waiving any of their other defenses.

WHEREFORE, PREMISES CONSIDERED, the Defendants, JAMES MICHAEL BYRD A/K/A MIKE BYRD, in his Official Capacity, and HOPE THORNTON, in her Official Capacity, respectfully request the Court to dismiss the official capacity claims against them in this action in that said claims are duplicitous since Jackson County, Mississippi is already a Defendant in this matter. Further, these Defendants requests the necessity of a separate memorandum be waived.

Respectfully submitted, this the 14th day of October 2014.

JAMES MICHAEL BYRD a/k/a MIKE
BYRD, Officially; and HOPE THORNTON,
Officially

By: /s/ Ryan A. Frederic
RYAN A. FREDERIC
Attorney for these Defendants

CERTIFICATE OF SERVICE

I, RYAN A. FREDERIC, hereby certify that on this date I electronically filed the foregoing *Motion to Dismiss the Official Capacity Claims* with the Clerk of the Court which sent notification of such filing to Douglas L. Tynes, Jr. and Dustin N. Thomas, counsel for the Plaintiff.

This the 14th day of October 2014.

By: /s/ Ryan A. Frederic

RYAN A. FREDERIC

Attorney for these Defendants

Ryan A. Frederic (MSB 102612)
Jessica M. Dupont (MSB 102262)
Office of the Board Attorney
Jackson County, Mississippi
Post Office Box 998
Pascagoula, MS 39568-0998
Telephone: (228) 769-3371
Facsimile: (228) 769-3119
rfrederic@jcboardatty.com
jdupont@jcboardatty.com